IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4299 OF 2006

Rasal Anjinath Baburao .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.M.S.Karnik for applicant

Mr.P.A.Pol, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 20th December 2006.

P.C.

. Heard Mr.Karnik for applicant and Mr.Pol, A.P.P. for State.

2. Applicant apprehends arrest in connection with C.R.No.41 of 2006, registered by Lasalgaon Police station. Provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and more particularly section 3(i)(iv) along with sections 447, 323, 504, 506 read with section 34 of I.P.C. are invoked.

3. Original complainant is a lady Deubai. She has in her complaint alleged that the applicant and two others encroached upon her land. The complainant was threatened, abused and assaulted. The complainant states that she belongs to Hindu Mahar caste. The present applicant is accused No.3.

4. From a perusal of the statement recorded of Deubai so also the affidavit filed to oppose the application before me, it is apparent that the applicant entered the land for measurement of

the same. He is Surveyor in the employment of State of Maharashtra. Application was made for survey and accordingly the job was assigned to the applicant herein. He measured the land, fixed the markings/boundaries and thereafter, submitted his report. As far as he is concerned, no role is assigned in the alleged threats, abuses and assault. In the peculiar facts of the applicant and when he has entered the land for measurement and survey of the same with due intimation as pointed out, then prima facie, the offence is not made out. Even otherwise, there is no apprehension that the applicant would not cooperate in the investigation. All documents pertaining to the survey and measurement on the relevant date have already been taken into custody. In such circumstances, his custodial interrogation is not necessary. Hence, following order:-

i) In the event of the arrest of the

applicant in connection with C.R.No.41 of 2006 registered with Lasalgaon police Station, the applicant shall be enlarged on bail in the sum of Rs.10,000/- with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will attend the Lasalgaon police station as and when summoned.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/ investigating agency. The applicant shall not tamper with the prosecution

evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)